

13-42-135 Private enforcement.

- (1) If an individual voids an agreement pursuant to Subsection 13-42-125(2), the individual may recover in a civil action all money paid or deposited by or on behalf of the individual pursuant to the agreement, except amounts paid to creditors, in addition to the recovery under Subsections (3)(c) and (d).
- (2) If an individual voids an agreement pursuant to Subsection 13-42-125(1), the individual may recover in a civil action three times the total amount of the fees, charges, money, and payments made by the individual to the provider, in addition to the recovery under Subsection (3)(d).
- (3) Subject to Subsection (4), an individual with respect to whom a provider or other person violates this chapter may recover in a civil action from the provider, the person, and any person that caused the violation:
 - (a) compensatory damages for injury, including noneconomic injury, caused by the violation;
 - (b) except as otherwise provided in Subsection (4) and subject to adjustment of the dollar amount pursuant to Subsection 13-42-132(6), with respect to a violation of Section 13-42-117, 13-42-119, 13-42-120, 13-42-121, 13-42-122, 13-42-123, 13-42-124, 13-42-126, or 13-42-127, or Subsection 13-42-128(1), (2), or (4), the greater of the amount recoverable under Subsection (3)(a) or \$5,000;
 - (c) punitive damages; and
 - (d) reasonable attorney fees and costs.
- (4) In a class action, except for a violation of Subsection 13-42-128(1)(f), the minimum damages provided in Subsection (3)(b) do not apply.
- (5) A provider is not liable under this section for a violation of this chapter if the provider proves that the violation was not intentional and resulted from a good-faith error notwithstanding the maintenance of procedures reasonably adapted to avoid the error. An error of legal judgment with respect to a provider's obligations under this chapter is not a good-faith error. If, in connection with a violation, the provider has received more money than authorized by an agreement or this chapter, the defense provided by this Subsection (5) is not available unless the provider refunds the excess no later than two business days of learning of the violation.
- (6) The administrator shall assist an individual in enforcing a judgment against the surety bond or other security provided under Section 13-42-113 or 13-42-114.

Amended by Chapter 152, 2012 General Session